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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,709	03/29/2001	Yoshiro Kokuryo	500-39945X00	4091

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EXAMINER

PHU, PHUONG M

ART UNIT PAPER NUMBER

2631

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/819,709	KOKURYO ET AL.	
	Examiner	Art Unit	
	Phuong Phu	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5, 10 or 17 of copending Application No. 09/945,693. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 5, 10 or 17 of Application No. 09/945,693 encompasses all the limitations recited in claims 1 and 8 of the instant application.
4. Claims 3 and 10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 or 18 of copending Application No. 09/945,693. Although the conflicting claims are not identical, they are not

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patentably distinct from each other because claims 11 or 18 of Application No. 09/945,693 encompasses all the limitations recited in claims 3 and 10 of the instant application.

5. Claims 1 and 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 or 10 of copending Application No. 09/822,272. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 or 10 of Application No. 09/822,272 encompasses all the limitations recited in claims 1 and 8 of the instant application.

6. Claims 2 and 9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 or 11 of copending Application No. 09/822,272. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 2 or 11 of Application No. 09/822,272 encompasses all the limitations recited in claims 2 and 9 of the instant application.

7. Claims 3 and 10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 or 12 of copending Application No. 09/822,272. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 3 or 12 of Application No. 09/822,272 encompasses all the limitations recited in claims 3 and 10 of the instant application.

8. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Potter (4,811,360).

-As per claims 1 and 8, see figures 1 and 2 and col. 3, line 50 to col. 6, line 5, Potter discloses a system (see figure 1) comprising:

a signal processing unit (inherently included), to which a training signal and a data signal are supplied, for producing a digital training signal and a digital data signal (DATA);

a first automatic equalization unit (30), to which said digital training signal and a digital data signal are supplied, for equalizing said digital data signal;

a memory (22a, 22b,..., 22n) for storing said digital training signal (see col. 3, lines 57-60 and col. 5, lines 3-13) and

a second automatic equalization unit (20) coupled with said memory, for outputting an updating signal (outputted from means (28)) therefrom, the equalization characteristic of which is updated on the basis of said digital training signal from said memory, wherein said updating signal from said second automatic equalization unit is supplied to said first automatic equalization unit, so that the equalization characteristic of said first automatic equalization unit is updated (see col. 5, line 64 to col. 6, line 2).

-As per claims 2 and 9, Potter discloses that said second automatic equalization unit includes an equalizer having a configuration substantially the same as an equalizer of said first automatic equalization unit (see figure 1, and col. 4, lines 11-12).

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-As per claims 3 and 10, Potter discloses that said digital training signal and digital data signal are supplied to said first automatic equalization unit through a delay circuit (40), the delay time of which is predetermined (see figure 1 and col. 4, lines 24-28).

-As per claims 4 and 12, in Potter, said digital training signal is inherently read out from said memory in accordance with a processing rate of said second automatic equalization unit for obtaining the system synchronization (see figure 1).

-As per claims 5 and 11, Potter discloses that said first automatic equalization unit receives said digital training signal and said digital data signal, alternately (see col. 4, lines 24-28).

-As per claims 6, 7, 13 and 14, Potter discloses that said memory (22a, 22b,..., 22n) is a storing memory (see figure 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 571-272-3009. The examiner can normally be reached on M-F (8:30-6:00) First Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong Phu
Primary Examiner
Art Unit 2631

Phuong Phu 09/13/04

Phuong Phu

**PHUONG PHU
PRIMARY EXAMINER**